

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jerry McGowan,)	
)	
Plaintiff,)	Case No. C-1-02-408
)	
vs.)	
)	
Bob Evans Farms, Inc., et al.,)	
)	
Defendants.)	

O r d e r

Plaintiff initiated this action in the Court of Common Pleas for Hamilton County, Ohio. Defendants removed the action to this Court on the basis of the Court's jurisdiction over claims asserted against Defendant Rusty Teague under federal law and the Court's supplemental jurisdiction over Plaintiff's other claims, all of which are asserted under state law. Plaintiff has now settled his claims against Defendant Teague and seeks an order dismissing those claims and remanding this action to the Court of Common Pleas for lack of subject matter jurisdiction over the remaining claims. None of the Defendants has filed a memorandum in opposition to Plaintiff's motion within the time allotted by Southern District of Ohio Local Rule 7.2.

Plaintiff's motion to dismiss his claims against Defendant Teague is hereby **GRANTED** pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. Those claims are dismissed with prejudice.

This Court does not have original jurisdiction over the remaining claims in this action. The Court is empowered, under 28 U.S.C. § 1367(c)(3), to dismiss the remaining claims. The supplemental jurisdiction statute does not, however, empower the Court to remand those claims to a state court of competent jurisdiction. The statute governing procedures after removal, 28 U.S.C. § 1447, provides, however, at subsection (c), that the Court "shall remand" any previously removed action in which it appears that the Court lacks subject matter jurisdiction.

Because it appears that the Court lacks subject matter jurisdiction in this action and because none of the remaining Defendants has filed a memorandum advising the Court of its opposition to Plaintiff's motion to remand, Plaintiff's motion to remand is hereby **GRANTED**, and the remaining claims in this action are hereby **REMANDED** to the Court of Common Pleas for Hamilton County.

IT IS SO ORDERED.

_____/s/
Sandra S. Beckwith
United States District Judge